

DEPARTMENT OF HEALTH**NOTICE OF FINAL RULEMAKING**

The Director of the Department of Health, pursuant to the authority set forth under § 302(14) of the D.C. Department of Health Occupations Revision Act of 1985, effective March 15, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of the adoption of the following amendments to Chapter 35 of Title 17 of the District of Columbia Municipal Regulations (DCMR). The purpose of these amendments is to publicize the new fees for licensure and registration of the professions covered under Title 3 of the District of Columbia Official Code. A Notice of Proposed Rulemaking was published in the *D.C. Register* on April 27, 2007 at 54 DCR 003882. Comments were received and considered during the 30-day comment period. As a result of comments received the fees of three professions were adjusted slightly. These final rules will be effective upon publication of this notice in the *D.C. Register*.

Chapter 35 (Licensing Fees) of Title 17 DCMR (Business, Occupations & Professions) (May 1990) is amended to read as follows:

CHAPTER 35 LICENSING FEES

3500.1 The examination and annual license fees for each class of license shall be as follows:

DESCRIPTION OF SERVICE	FEE
ACUPUNCTURISTS:	
Application Fee (original, temporary, or reinstatement)	\$85.00
License Fee	\$145.00
Re-Examination	\$119.00
Paid Inactive Status	\$145.00
Renewal Fee	\$145.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$229.00
ADDICTION COUNSELORS:	
Application Fee	\$85.00
License Fee	\$145.00
Paid Inactive Status	\$145.00
Renewal Fee	\$145.00
Late Renewal Fee	\$85.00
Document Duplication License	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$229.00

ADVANCED REGISTERED NURSES:

Application Fee	\$85.00
License Fee (1 st time APRN with one authority)	\$145.00
License Specialty Fee	\$145.00
Paid Inactive Status	\$145.00
Renewal Fee	\$263.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$348.00
Each additional/Nursing authority	\$119.00
Temporary License <1>	\$33.00

ANESTHESIOLOGY ASSISTANTS:

Application Fee	\$85.50
License Fee	\$145.00
Paid Inactive Status	\$145.00
Renewal Fee	\$145.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$229.00

AUDIOLOGISTS:

Application Fee	\$85.00
License Fee	\$179.00
Paid Inactive Status	\$179.00
Renewal Fee	\$179.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$263.00

CHIROPRACTORS:

Application Fee	\$85.00
License Fee	\$457.00
Re-Examination	\$339.00
Paid Inactive Status	\$203.00
Renewal Fee	\$203.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$507.00

CHIROPRACTORS: (ancillary procedures)

Application Fee	\$85.00
License Fee	\$186.00
Re-Examination	\$119.00
Paid Inactive Status	\$153.00
Renewal Fee	\$153.00
Late Renewal	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$271.00

DANCE THERAPISTS:

Application Fee	\$85.00
License Fee	\$145.00
Paid Inactive Status	\$145.00
Renewal Fee	\$145.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$229.00

DENTAL HYGIENISTS:

Application Fee	\$85.00
License Fee	\$134.00
Paid Inactive Status	\$135.00
Renewal Fee	\$136.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$186.00

DENTISTS:

Application Fee	\$85.00
License Fee	\$319.00
Paid Inactive Status	\$254.00
Renewal Fee	\$254.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$370.00

DIETICIANS:

Application Fee	\$85.00
License Fee	\$144.00
Paid Inactive Status	\$144.00

Renewal Fee	\$144.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$228.00

MARRIAGE AND FAMILY THERAPISTS:

Application Fee	\$85.00
License Fee	\$177.00
Paid Inactive Status	\$177.00
Renewal Fee	\$177.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$262.00

MASSAGE THERAPISTS:

Application Fee	\$85.00
License Fee	\$177.00
Paid Inactive Status	\$177.00
Renewal Fee	\$177.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$229.00

MEDICAL DOCTORS:

Application (original or reinstatement)	
-By examination or re-examination	\$85.00
-By endorsement, reciprocity, or waiver	\$305.00
-By Eminence 1	\$305.00
-By Eminence 2 (and initial license)	\$1500.00
License (original, renewal, temporary, renewal, or reinstated)	
-By examination or re-examination	\$203.00
-By endorsement, reciprocity, renewal, waiver, or Eminence 1, Eminence 2 (renewal)	\$500.00
Late Renewal Fee	\$85.00
Application for Temporary License	\$305.00
Paid Inactive Status	\$500.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00

NATUROPATHS:

Application Fee	\$85.00
License Fee	\$145.00

Paid Inactive Status	\$145.00
Renewal Fee	\$145.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$229.00

NATUROPATHIC PHYSICIANS:

Application Fee	\$85.00
Licensee Fee	\$145.00
Paid Inactive Status	\$145.00
Renewal Fee	\$145.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$229.00

NURSING HOME ADMINISTRATORS:

Application Fee	\$85.00
License Fee	\$237.00
Re-Examination	\$119.00
Paid Inactive Status	\$203.00
Renewal Fee	\$203.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$288.00

NURSING SCHOOLS: (initial accreditation fee)

Application Fee	\$10,000
Annual Renewal Fee	\$1,300

NUTRITIONISTS:

Application Fee	\$85.00
License Fee	\$179.00
Re-Examination	\$119.00
Paid Inactive Status	\$145.00
Renewal Fee	\$145.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$229.00

OCCUPATIONAL THERAPISTS/OCCUPATIONAL THERAPY ASSISTANTS:

Application Fee	\$85.00
License Fee	\$179.00

Paid Inactive Status	\$179.00
Renewal Fee	\$179.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$263.00

OPTOMETRISTS: (with TPA¹ or DPA²)

Application Fee	\$85.00
License Fee	\$348.00
Paid Inactive Status	\$203.00
Renewal Fee	\$203.00
Optometry Diagnostic	\$145.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$432.00

OPTOMETRISTS: (without TPA or DPA)

Application Fee	\$85.00
License Fee	\$203.00
Paid Inactive Status	\$203.00
Renewal Fee	\$203.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$288.00

PHARMACISTS:

Application Fee	\$85.00
License Fee	\$195.00
Re-Examination	\$85.00
Paid Inactive Status	\$179.00
Renewal Fee	\$179.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$280.00

PHARMACY INTERNS:

Application Fee	\$85.00
License Fee	\$164.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00

¹ Therapeutic Pharmaceutical Agents² Diagnostic Pharmaceutical Agents

PHYSICAL THERAPISTS:

Application Fee	\$85.00
License Fee	\$179.00
Re-Examination	\$85.00
Paid Inactive Status	\$179.00
Renewal Fee	\$179.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$263.00

PHYSICAL THERAPY ASSISTANTS:

Application Fee	\$85.00
License Fee	\$179.00
Re-Examination	\$85.00
Paid Inactive Status	\$179.00
Renewal Fee	\$179.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$263.00

PHYSICIAN ASSISTANTS:

Application Fee	\$85.00
License Fee	\$145.00
Paid Inactive Status	\$145.00
Renewal Fee	\$145.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$229.00

PODIATRISTS:

Application Fee	\$85.00
License Fee	\$179.00
Re-Examination	\$128.00
Paid Inactive Status	\$179.00
Renewal Fee	\$179.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$229.00

POST GRADUATE PHYSICIAN ENROLLMENT:

Annual Fee	\$65.00
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PRACTICAL NURSES:

Application Fee (examination or endorsement)	\$85.00
License Fee (examination)	\$102.00
License Fee (endorsement)	\$145.00
Re-Examination	\$85.00
Paid Inactive Status	\$145.00
Renewal Fee	\$145.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$229.00
Temporary License <1>	\$32.50

PROFESSIONAL COUNSELORS:

Application Fee	\$85.00
License Fee	\$145.00
Paid Inactive Status	\$145.00
Renewal Fee	\$145.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$229.00

PSYCHOLOGISTS:

Application Fee	\$85.00
License Fee	\$236.60
Re-Examination	\$119.00
Paid Inactive Status	\$203.00
Renewal Fee	\$203.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$288.00

RECREATION THERAPISTS:

Application Fee	\$85.00
License Fee	\$145.00
Paid Inactive Status	\$145.00
Renewal Fee	\$145.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$229.00

REGISTERED NURSES:

Application Fee (examination or endorsement)	\$85.00
License Fee (examination)	\$102.00
License Fee (endorsement)	\$145.00
Re-Examination	\$85.00
Paid Inactive Status	\$145.00
Renewal Fee	\$145.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$229.00
Temporary License <1>	\$32.50

RESPIRATORY CARE THERAPISTS:

Application Fee	\$85.00
License Fee	\$169.00
Paid Inactive Status	\$169.00
Renewal Fee	\$169.00
Late Renewal Fee	\$169.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$254.00

SOCIAL WORKERS:

Application Fee	\$85.00
License Fee	\$145.00
Paid Inactive Status	\$145.00
Renewal Fee	\$145.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$229.00

SPEECH-LANGUAGE PATHOLOGISTS:

Application Fee	\$85.00
License Fee	\$179.00
Paid Inactive Status	\$179.00
Renewal Fee	\$179.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$263.00

SURGICAL ASSISTANTS:

Application Fee	\$85.00
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License Fee	\$145.00
Paid Inactive Status	\$145.00
Renewal Fee	\$145.00
Late Renewal Fee	\$85.00
Document Duplication Fee	\$34.00
Verification of Records	\$34.00
Reinstatement Fee	\$229.00

TRAINED MEDICATION EMPLOYEES:

Initial Certification/Reciprocity	\$59.00
Re-certification (Renewal)	\$59.00

NOTES:

1. Fees for temporary licenses for health occupations are listed even though the boards governing the health care occupations may not have established the fees.

DEPARTMENT OF HEALTH**NOTICE OF FINAL RULEMAKING**

The Director of the Department of Health, pursuant to the authority set forth under § 302 (14) of the District of Columbia Health Occupations Revision Act of 1985 (Act), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice that the Proposed Rulemaking was published on April 20, 2007 at 54 DCMR 003531. No comments were received and no changes have been made to the proposed rulemaking. These final rules will become effective upon publication of this notice in the D.C. Register.

Chapter 52 (Naturopathic Medicine) of Title 17 (Business, Occupations & Professions) (May 1990) is amended as follows:

Section 5205 is amended to read as follows:

5205 NATIONAL EXAMINATION

- 5205.1 Except as otherwise provided in this subtitle, an applicant shall receive a passing score on the required level of the examination sponsored by the Naturopathic Physicians Licensing Examination (NPLEX) basic science examination and clinical science examination sections administered by the North American Board of Naturopathic Examiners (NABNE), or other examination approved by the Board of Medicine.
- 5205.2 A passing score on the Part I series of the Basic Science Examination shall be a minimum converted score of seventy-five (75) on each of the five (5) parts.
- 5205.3 An applicant who does not achieve a score of at least sixty (60) on each of failed parts shall be required to retake the entire Part I series.
- 5205.4 An applicant shall take and pass Part II of the Core Clinical Science Examination within ten (10) years of taking Part I of the Basic Science Examination. Failure to take and pass Part II within the ten (10) year period shall result in the applicant retaking Part I again.
- 5205.5 A passing score on Part II of the Core Clinical Science Examination shall consist of:
- (a) Achieving a minimum converted score of at least seventy-five (75) on all eight (8) Part II Core Clinical Science Examinations; or
 - (b) Under the Compensatory Model for Part II Core Clinical Science Series:

- (1) Achieving a converted score on the Physical and Clinical Examination of at least seventy-five (75);
- (2) Achieving an average converted score on the eight (8) Part II Core Clinical Science Examinations of at least seventy-five (75) with Clinical Add-On Examination scores not being included in the average; and
- (3) Achieving a converted score for every Part II Core Clinical Science Examination of at least seventy (70).

5205.6 Part II Add-On Examinations for Homeopathy, Minor Surgery and Acupuncture shall not be required.

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02), Reorganization Plan No. 4 of 1996, and Mayor's Order 97-42, dated February 18, 1997, hereby gives notice of the adoption of an amendment to section 927 of Chapter 9 of Title 29 of the District of Columbia Municipal Regulation (DCMR), entitled "Attendant Care Services." These rules establish standards governing reimbursement by the District of Columbia Medicaid Program for Attendant Care Services provided by qualified professionals to participants in the Home and Community-based Waiver for Persons with Mental Retardation and Developmental Disabilities (Waiver).

On December 15, 2006, a notice of emergency and proposed rulemaking was published in the *D.C. Register* (53 DCR 9944). Comments were received and substantive changes have been made. These rules amend the December 15th rules by establishing a definition for the term "Medically Stable"; deleting the requirement to limit reimbursement when anyone else in the household is capable of providing attendant care services; clarifying the requirements for consumer directed care; requiring providers to assist a consumer in selecting a new provider if the provider discharges a client; revising the requirements regarding waiver of the 1,040 hours service limitation; and other technical changes.

A notice of emergency and proposed rulemaking was published in the *D.C. Register* on April 13, 2007 (54 DCR 3318). No comments on the proposed rules were received. No substantive changes have been made. These rules shall become effective on the date of publication of this notice in the *D.C. Register*.

Section 927 (Attendant Care Services) of Chapter 9 of Title 29 DCMR is deleted in its entirety and amended to read as follows:

SECTION 927 ATTENDANT CARE SERVICES

- 927.1 Attendant care services shall be reimbursed by the Medicaid Program for each consumer enrolled in the Home and Community Based Waiver for Persons with Mental Retardation and Developmental Disabilities (Waiver) subject to the requirements set forth in this section.
- 927.2 Attendant care services shall consist of hands-on care, of both a supportive and health-related nature, specific to the needs of a medically stable, physically handicapped individual. Supportive services are those services which substitute for the absence, loss, diminution, or impairment of physical or cognitive function.

- 927.3 Attendant care services eligible for reimbursement include, but are not limited to the following services:
- (a) Basic personal care including assistance with bathing and personal hygiene, dressing, grooming, lifting and transferring, feeding and bowel and bladder care;
 - (b) Household services including assistance with meal preparation, shopping, cleaning and laundry which are incidental to the performance of care;
 - (c) Cognitive services including assistance with money management, use of medications, and cueing with adaptive living skills;
 - (d) Mobility services including escort and consumer transportation; and
 - (e) Health-related tasks, including those medical tasks that can be performed by an unlicensed person or delegated to an unlicensed person by a licensed health professional to the extent permitted by State law.
- 927.4 Attendant care services eligible for reimbursement may be provided in the following settings:
- (a) An individual's home;
 - (b) A foster home;
 - (c) A supervised apartment; and
 - (d) A non-institutional place of residence other than as described in (a) through (c) of this section as permitted by District law.
- 927.5 Attendant care services shall be authorized and provided in accordance with each consumer's Individual Habilitation Plan (IHP) or Individual Support Plan (ISP).
- 926.6 Each person providing attendant care services shall be supervised by one of the following:
- (a) A registered nurse subject to the requirements set forth in section 927.7;
 - (b) The consumer subject to the requirements set forth in section 927.8; or
 - (c) The consumer's case manager.
- 927.7 The frequency and intensity of supervision by the registered nurse shall be specified in the consumer's written plan of care.
- 927.8 If under consumer directed care, the consumer may supervise his care after training to perform this function and receipt of written certification by a

registered nurse who has observed the consumer and the person providing attendant care services during the actual provision of care. Documentation of the certification shall be maintained in the consumer's Individual Plan of Care (IPC).

927.9

Each provider of attendant care services shall:

- (a) Be a non-profit, home health agency, social service agency, or other business entity;
- (b) Have a current District of Columbia Medicaid Provider Agreement that authorizes billing for attendant care services under the Waiver;
- (c) Maintain a copy of the most recent IHP or ISP approved by the Department of Human Services, Mental Retardation and Developmental Disabilities Administration (MRDDA) or the Department on Disability Services (DDS);
- (d) Ensure that each person providing attendant care services is qualified and properly supervised;
- (e) Be available twenty-four (24) hours a day, seven (7) days a week;
- (f) Offer the Hepatitis B vaccination to each person providing services pursuant to these rules; and
- (g) Provide training in infection control procedures consistent with the requirements of the Occupational Safety and Health Administration, U.S. Department of Labor regulations at 29 CFR 1910.1030.

927.10

Each person providing attendant care services for a provider under section 927.9 shall meet all of the following requirements:

- (a) Be at least eighteen (18) years of age;
- (b) Be acceptable to the consumer;
- (c) Be certified in cardiopulmonary resuscitation (CPR) and thereafter obtain CPR certification annually;
- (d) Demonstrate annually that he or she is free from communicable disease as confirmed by an annual purified protein derivative of tuberculin (PPD) Skin Test or documentation from a physician;
- (e) Have the ability to communicate with the consumer;
- (f) Be able to read and write the English language;
- (g) Have a high school diploma or general equivalency development (GED) certificate;
- (h) Be able to recognize an emergency and execute emergency procedures;
- (i) Agree to carry out attendant care responsibilities consistent with the consumer's IHP or ISP;
- (j) Complete MRDDA or DDS approved pre-service and in-service training;

- (k) Complete a forty (40) hour training consistent with the training guidelines for Level 1 Home Care workers established by the National Home Caring Council, prior to employment; and
- (l) Comply with the requirements of the Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998, effective April 20, 1999 (D.C. Law 12-238), as amended by the Health-Care Facility Unlicensed Personnel Criminal Background Check Amendment Act of 2002, effective April 13, 2002 (D.C. Law 14-98; D.C. Official Code, §§ 44-551 *et seq.*).

927.11 A family member other than a spouse or parent of a minor recipient may provide attendant care services. Each family member providing attendant care services shall meet all the requirements set forth in sections 927.9 and 927.10 of these rules.

927.12 A provider shall notify, in writing, the consumer's case manager and the consumer or consumer's representative no later than seven (7) calendar days prior to a discharge or referral. An oral notice may be substituted in place of the written notice, if the discharge is the result of:

- (a) A medical emergency;
- (b) A physician's order to admit the consumer to an inpatient facility;
- (c) A determination by the provider that the discharge or referral is necessary to protect the health, safety or welfare of agency staff; or
- (d) A determination by the ISP or IHP team indicates that a need for service no longer exists.

927.13 If the consumer seeks to change providers or if a provider is discharging a consumer, the current provider shall assist the consumer in selecting a new provider and cannot abandon the consumer until the transfer has been successfully completed.

927.14 Each provider shall develop contingency staffing plans for each consumer in the event the assigned attendant care aide is unable to provide services.

927.15 The billable unit of service for attendant care services shall be fifteen (15) minutes. A provider shall provide at least eight (8) minutes of service in a span of fifteen (15) continuous minutes to be able to bill a unit of service.

927.16 The reimbursement rate for attendant care services shall be \$4.08 per billable unit.

927.17 Attendant care services shall be limited to 1,040 hours per consumer during a one (1) year period commencing on the date that services are authorized.

927.18 The 1,040 hours limitation set forth in section 927.17 may be waived by the Department of Health, Medical Assistance Administration for a consumer with evidence of a long-term physical or cognitive disability that requires individually trained and focused support. Waiver of the 1,040 hours limitation shall be approved by the MRDDA Human Rights Committee, its subsidiary the Restricted Control Review Committee, or a successor entity in DDS. The plan of care shall include the consumer's therapeutic goals and a staffing schedule.

927.99 DEFINITIONS

When used in this section, the following terms and phrases shall have the meanings ascribed.

Activities of Daily Living - The ability to get in and out of bed, bathe, dress, eat, take medication prescribed for self-administration and to engage in toileting.

Consumer - An individual who has been determined eligible to receive services under the Home and Community-Based Waiver for Persons with Mental Retardation and Developmental Disabilities.

Communicable Disease - Shall have the same meaning as set forth in section 201 of Chapter 2 of Title 22, District of Columbia Municipal Regulations.

Family - Any person related to the consumer by blood, marriage or adoption.

Individual Habilitation Plan (IHP) - That plan as forth in section 403 of the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978, effective March 3, 1979 (D.C. Law 2-137; D.C. Official Code, § 7-1304.03).

Individual Support Plan (ISP) - The successor to the individual habilitation plan (IHP) as defined in the court-approved Joy Evans Exit Plan.

Medically Stable - Means that the consumer is not currently receiving treatment for a chronic condition.

Plan of Care- A written plan that meets the requirements set forth in section 1904.4 of Title 29 DCMR.

Provider - Any non-profit, home health agency, social service agency or other business entity that provides services pursuant to these rules.

Registered Nurse - A person who is licensed or authorized to practice registered nursing pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code, §§ 3-1202 *et seq.*) or licensed as a registered nurse in the jurisdiction where the services are provided.

Supervised Apartment - A living arrangement for one to three consumers with mental retardation that provides drop-in to twenty-four hour supervision, and is funded through a Human Care Agreement with MRDDA or DDS. The living arrangement site where services are provided is not limited to an apartment, but may include a condominium or townhouse.

DEPARTMENT OF HEALTH**NOTICE OF FINAL RULEMAKING**

The Director of the Department of Health, pursuant to the authority set forth in An Act to enable the District of Columbia to receive Federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code, § 1-307.02), Reorganization Plan No. 4 of 1996, and Mayor's Order 97-42, dated February 18, 1997, hereby gives notice of the adoption of an amendment to section 993 of Chapter 9 of Title 29 of the District of Columbia Municipal Regulations (DCMR), entitled "Independent Habilitation Services." These rules establish standards governing reimbursement by the District of Columbia Medicaid Program for Independent Habilitation Services provided by licensed or supervised professionals to participants with mental retardation in the Home and Community Based Waiver for Persons with Mental Retardation and Developmental Disabilities (Waiver).

A notice of emergency and proposed rulemaking was published in the *D.C. Register* on December 22, 2006 (53 DCR 10155). Comments were received and substantive changes have been made. These rules amend the December 22nd rules by increasing the reimbursement rate from \$13.80 per hour to \$15.00 per hour; increasing the number of hours that services may be provided to all consumers to 16 hours on the weekends; requiring annual CPR certifications by persons providing independent habilitation services; and other technical changes.

A notice of emergency and proposed rulemaking was published in the *D.C. Register* on March 30, 2007 (54 DCR 2860). No comments on the proposed rules were received. No substantive changes have been made. These rules shall become effective one day after publication of this notice in the *D.C. Register*.

Section 993 (Independent Habilitation Services) of Chapter 9 of Title 29 DCMR is deleted in its entirety and amended to read as follows:

993 INDEPENDENT HABILITATION SERVICES

- 993.1 The Medicaid Program shall reimburse independent habilitation services for each participant with mental retardation in the Home and Community Based Services Waiver for Persons with Mental Retardation and Developmental Disabilities (Waiver) subject to the requirements set forth in this section.
- 993.2 Independent habilitation services provide periodic support for the consumer living in his or her own home or within a supervised apartment enabling the consumer to live independently and participate in community activities.
- 993.3 Independent Habilitation Services eligible for reimbursement are as follows:
- (a) Training in activities of daily living and independent living skills;

- (b) Assistance in performing personal care tasks;
- (c) Training on understanding and utilizing community resources;
- (d) Training on, and assistance in the monitoring of health, nutrition, and physical condition;
- (e) Training in adapting to a community and home environment, including: management of financial and personal affairs, and awareness of health and safety precautions; and
- (f) Coordinating transportation to community events.

993.4 A consumer shall only be eligible for independent habilitation services when living in one of the following types of residences:

- (a) His or her own home;
- (b) The home of an unpaid caregiver; or
- (c) A supervised apartment.

993.5 If, the supervised apartment is located out of state, then each provider shall comply with the following additional requirements:

- (a) Obtain licensure or certification in accordance with host state's laws and regulations;
- (b) Remain in good standing in the jurisdiction where the program is located;
- (c) Submit a copy of the annual certification or survey performed by the host state and provider's corrective action plan to Department of Human Services, Mental Retardation and Developmental Disabilities Administration (MRDDA); and
- (d) Allow authorized agents of the District of Columbia government, federal government and governmental officials of the host state full access to all sites where services are provided and access to records during announced and unannounced visits or reviews.

993.6 Independent habilitation services shall not exceed forty (40) hours during a transitional period, when provided to a consumer residing in an institutional setting prior to his or her transition to a supervised apartment and when authorized in the consumer's individual habilitation plan (IHP) or individual support plan (ISP).

- 993.7 Independent habilitation services shall be authorized by the consumer's interdisciplinary team and provided in accordance with each consumer's IHP or ISP.
- 993.8 The IHP or ISP shall indicate whether the staffing plan requires the participation of a licensed professional to meet the client's individual needs and include the level of supervision to maintain sufficient oversight and guidance to ensure the health, safety and welfare of the client.
- 993.9 A professional who participates in a staffing plan pursuant to section 993.7 shall be licensed to practice his or her profession pursuant to the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code, §§ 3-1201 *et seq.*); or be licensed to practice his or her profession within the jurisdiction where he or she provides the services.
- 993.10 Each provider of independent habilitation services shall:
- (a) Be a non-profit, home health agency, social service agency, or other business entity;
 - (b) Have a current District of Columbia Medicaid Provider Agreement that authorizes the provider to bill for Independent Habilitation Services under the Waiver;
 - (c) Maintain a current Human Care Agreement with the Department of Human Services, Mental Retardation and Developmental Disabilities Administration (MRDDA) for residential services, if provided by a paid caregiver;
 - (d) Maintain a copy of the IHP or ISP approved by the Department of Human Services, Mental Retardation and Developmental Disabilities Administration (MRDDA);
 - (e) Ensure that all independent habilitation services staff are qualified and properly supervised;
 - (f) Ensure that the service provided is consistent with the consumer's IHP or ISP;
 - (g) Maintain documentation indicating the dates and times of staff training and type of training activities provided;
 - (h) Offer the Hepatitis B vaccination to each person providing services pursuant to these rules;
 - (i) Provide training in infection control procedures consistent with the

Occupational Safety and Health Administration, U.S. Department of Labor regulations 29 CFR 1910.1030;

- (j) Maintain records that support billed services and document in each record the type of activity provided, inclusive of the date and time service was rendered;
- (k) Maintain a policy manual that contains the following subjects:
 - (1) Admission and discharge of consumer's;
 - (2) Operational procedures for consumer care;
 - (3) Consumer's rights and responsibilities;
 - (4) Procedures for emergency care, infection control and reporting of unusual incidents;
 - (5) Health and safety issues;
 - (6) Staffing and personnel;
 - (7) Financial and record-keeping requirements; and
 - (8) Quality Assurance.
- (l) Report the following changes to designated MRDDA staff:
 - (1) Inability to provide the required Waiver services;
 - (2) Unwillingness to provide the required Waiver services;
 - (3) Any changes in the consumer's function; and
 - (4) Suspected abuse or neglect.
- (m) Ensure that each supervised apartment is accessible to public transportation and emergency vehicles; and
- (n) Maintain a written staffing plan and provide a written staffing schedule for each site that services are provided.

993.11 Providers shall ensure that the individual's residence conforms with all applicable health, sanitation, fire, building and zoning codes as promulgated by the Government of the District of Columbia or the jurisdiction where services are provided; is handicapped accessible; barrier-free and consistent with the consumer's ISP or IHP..

993.12 Each person providing independent habilitation services pursuant to section 993.9 shall meet all the following requirements:

- (a) Be at least eighteen (18) years of age;
- (b) Be acceptable to the consumer;

- (c) Demonstrate annually that he or she is free from communicable disease as confirmed by an annual purified protein derivative of tuberculin (PPD) Skin Test or documentation from a physician;
- (d) Have the ability to communicate with the consumer;
- (e) Be able to read and write the English language;
- (f) Have a high school diploma or a general educational development (GED) certificate;
- (g) Have at least one (1) year of experience working with persons with developmental disabilities;
- (h) Complete training as required by the Department of Human Services, Mental Retardation and Developmental Disabilities Administration (MRDDA);
- (i) Comply with the requirements of the Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998 (Act), effective April 20, 1999 (D.C. Law 12-238; D.C. Official Code §§ 44-551 *et seq.*) and any rules issued pursuant to the Act;
- (j) Complete training in First Aid; and
- (k) Be certified in cardiopulmonary resuscitation (CPR) and thereafter maintain current CPR certification.

993.13 Each provider of independent habilitation services shall review the consumer's ISP or IHP goals, objectives and activities at least quarterly and more, often as needed. The provider shall propose modifications to the ISP or IHP as appropriate. The results of these reviews shall be submitted to the consumer's case manager within 30 days of the end of each quarter.

993.14 Each provider shall develop an Individual Program Plan (IPP) for each consumer receiving independent habilitation services. The IPP shall contain at a minimum all of the following:

- (a) The consumer's goals;
- (b) A sequence of measurable objectives to meet the identified outcomes or training goals;
- (c) Listing of all services to be rendered;
- (d) Schedule of services to accomplish the goals;
- (e) Timetable for the accomplishment of the goals;
- (f) Provider staff responsible for coordination and integration of services specified in the ISP or IHP; and

- (g) Total number of projected hours per week of Waiver services.
- 993.15 The billable unit of service shall be one (1) hour.
- 993.16 The reimbursement rate shall be fifteen dollars (\$15.00) per billable unit and shall not exceed eight (8) hours per day, Monday through Friday and sixteen (16) hours per day Saturday and Sunday.
- 993.17 Reimbursement shall be limited to those time periods in which the provider is rendering services directly to the consumer in a face-to-face environment.
- 993.18 Each provider of independent habilitation services shall coordinate the delivery of necessary preventative, consultative and crisis support services, personal care services, skilled nursing services and transportation services from approved Waiver providers of those services in accordance with the requirements of the ISP or IHP.
- 993.19 Reimbursement for independent habilitation services shall not include:
- (a) Room and board costs;
 - (b) Protective oversight costs;
 - (c) Routine care and general supervision expected from the family or provider;
 - (d) Overhead or administrative costs;
 - (e) Building maintenance costs;
 - (f) Household supplies, including towels and linens; or
 - (g) Services or costs for which payment is made by a source other than Medicaid.
- 993.20 Independent Habilitation Services shall not be billed concurrently with the following Waiver services:
- (a) Homemaker, except when the client is living in his or her own home;
 - (b) Adult companion;
 - (c) Day Habilitation;
 - (d) Supportive employment;
 - (e) Prevocational;
 - (f) Chore, except when the consumer is living in his or her own home;
 - (g) Residential habilitation services;
 - (h) Respite; or
 - (i) Family training.

993.99 DEFINITIONS

When used in this section, the following terms and phrases shall have the meanings ascribed:

Consumer- An individual with mental retardation who has been determined eligible to receive services under the Home and Community-Based Waiver for Persons with Mental Retardation and Developmental Disabilities.

Communicable disease- that term as set forth in section 201 of Title 22 of the District of Columbia Municipal Regulations.

Individual Habilitation Plan (IHP)- that plan as set forth in section 403 of the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978, effective March 3, 1979 (D.C. Law 2-137; D.C. Official Code, § 7-1304.03).

Individual Support Plan (ISP)- the successor plan to the Individual Habilitation Plan (IHP) as defined in the court-approved Joy Evans Exit Plan.

Supervised Apartments- A living arrangement located in or outside the District of Columbia for one to three consumers with mental retardation and developmental disabilities that provides drop-in to twenty-four hour supervision and is funded by the Department of Human Services, Mental Retardation and Developmental Disabilities Administration through a Human Care Agreement. The oversight of living arrangements located outside of the District of Columbia shall be performed by the host state in accordance with the terms and conditions of an agreement between the District of Columbia and the host state. The living arrangement site where services are provided is not limited to an apartment, but may include a condominium or townhouse.

**THE DISTRICT OF COLUMBIA
LOTTERY AND CHARITABLE GAMES CONTROL BOARD**

NOTICE OF FINAL RULEMAKING

The Executive Director of the District of Columbia Lottery and Charitable Games Control Board, pursuant to the authority set forth in D.C. Official Code §3-1306, District of Columbia Financial Responsibility and Management Assistance Authority Order issued September 21, 1996, and Office of the Chief Financial Officer Financial Management Control Order No. 96-22 issued November 18, 1996, hereby gives notice of the proposal of amendments to Chapters 5, 9 and 99 of Title 30 DCMR, "Lottery and Charitable Games." These amendments are necessary to introduce the D.C. Millionaire Raffle game that will start on July 1, 2007. No substantive changes have been made to the text of these proposed rules published in the D.C. Register on May 25, 2007 at 54 DCR 005319. These final rules will be effective upon publication of this notice in the D.C. Register.

AMEND CHAPTER 5. "LOTTERY TICKET"

Amend subsection 503.4 by substituting the following:

- 503.4.1 A ticket for POWERBALL®, Hot Lotto™, DC Daily 6™, Rolling Cash 5™, and all on-line Raffle Tickets shall not be voided or cancelled.

AMEND CHAPTER 9. "DESCRIPTION OF ON-LINE GAMES"

Amend Chapter 9 by deleting sections 915 and 916 in their entirety and replacing with the following:

915. DESCRIPTION OF ON-LINE RAFFLE GAME

- 915.1 The Agency may offer on-line raffle games.
- 915.2 The Agency's raffle game shall be called D.C. Millionaire Raffle.
- 915.3 D.C. Millionaire Raffle rules only apply to the Agency's on-line raffle games and not to the Charitable Gaming Raffle rules referred to in Title 30, Chapter 15 of the D.C. Municipal Rules and Regulations.

- 915.4 D.C. Millionaire Raffle is an on-line raffle style game played at any agent location that has an on-line terminal. On-line raffle tickets are sold in limited quantities, for a specified limited time.
- 915.5 Each raffle ticket contains a unique serial number or numbers from a specified range. A player purchases the raffle ticket for a chance to win prizes through a random drawing of all purchased raffle tickets.
- 915.6 Agency shall offer 250,000 on-line raffle tickets for the D.C. Millionaire Raffle game. Raffle tickets will be sold from Sunday, July 1, 2007 through Wednesday, August 22, 2007.
- 915.7 The cost of one (1) D.C. Millionaire Raffle game ticket shall be (\$10) ten dollars each or any other price designated by the Executive Director from a price schedule adopted by the Agency.
- 915.8 The player must inform the agent that they want to play the D.C. Millionaire Raffle game. There are no play slips or quick pick selections for the D.C. Millionaire Raffle game.
- 915.9 Each D.C. Millionaire Raffle ticket shall contain a six (6) digit number from 000001 through 250,000 and shall be sold sequentially from the available selection pool. Players purchasing more than one (1) ticket may not receive consecutively numbered tickets because of availability at the time of purchase.
- 915.10 The winning ticket numbers will be determined through a drawing that will be conducted with the Agency's Computerized Drawing System ("CDS"). Such winning ticket numbers shall be selected in accordance with existing Lottery draw procedures.
- 915.11 The order of the ticket numbers drawn by the CDS at the drawing determines the prize level eligibility. The first (1st) ticket number drawn shall be the winner of the first (1st) prize of \$1,000,000 dollars. The next three (3) tickets numbers drawn shall be the winners of the (2nd) prize of \$50,000 each. And the next one hundred (100) ticket numbers drawn shall be the winners of the (3rd) prize of \$1,000 each.
- 915.12 A player wins if the raffle ticket number drawn matches their raffle ticket number exactly. There shall be no alternates drawn for this game.
- 915.13 Unless otherwise specified by the Executive Director, the sale of the D.C. Millionaire Raffle game tickets will be suspended when the 250,000 ticket is sold, or on August 22, 2007.
- 915.14 The Agency reserves the right to reschedule any dates and times, without advance notice, when circumstances warrant. It is anticipated that the drawing will take place on Tuesday, August 28, 2007, but it may be held earlier or later as directed by the Executive Director.

- 915.15 The player is solely responsible for ensuring that he or she receives a raffle ticket after purchase. The printed D.C. Millionaire Raffle ticket is the only valid proof of a player's purchase and is the only valid receipt for claiming a prize. A ticket subject to the validations requirements of this title shall be the only proof of a wager.
- 915.16 A player whose ticket does not print as a result of a paper jam or other error cannot receive a reprint of that ticket. The full value of the ticket purchase price must be refunded to the player. The agent must properly document and report the event along with the appropriate paper work to receive credit.
- 916 D.C. MILLIONAIRE RAFFLE GAME PRIZE POOL, PRIZE STRUCTURE AND PROBABILITY OF WINNING**
- 916.1 The D.C. Millionaire Raffle will offer a total of one hundred and four (104) prizes.
- 916.2 The prize pool for all prize categories shall consist of fifty percent (50%) of each drawing period sales.
- 916.3 The D.C. Millionaire Raffle is a raffle game with fixed payout for the prizes which pays prizes based on a sale of 250,000 tickets at (\$10) ten dollars each are as follows:

<u>Number of Winners Per 250,000 Tickets</u>	<u>Win</u>
1	\$1,000,000
3	\$50,000
100	\$1,000

916.4 The following table sets forth the probability of winning and the probable distribution of winners in and among each prize category, based upon selling all 250,000 raffle tickets.

Set Prize Amount	Number of Prizes	Overall Odds	Amount Paid	Percentage Of Sales	Percentage Of Payout
\$1,000,000	1	1:250,000	\$1,000,000	40%	80%
\$50,000	3	1: 83,333	\$150,000	6%	12%
\$1,000	100	1: 2,500	\$100,000	4%	8%
Total	104	1: 4,545	\$1,250,000	50%	100%

AMEND CHAPTER 99, "DEFINITIONS"

Amend subsection 9900.1 by adding the following:

On-Line Raffle Game- is a lottery game where a player purchases a raffle ticket generated by the on-line gaming system and are sold in limited quantities, for a specified limited time.

On-Line Raffle Ticket- a computer generated ticket issued by the on-line terminal as proof and receipt for a wager in the On-Line Raffle Game.

**PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., SUITE 200, WEST TOWER
WASHINGTON, DC 20005**

NOTICE OF FINAL RULEMAKING

**GAS TARIFF 00-2, IN THE MATTER OF WASHINGTON GAS LIGHT COMPANY'S
RIGHTS-OF-WAY SURCHARGE GENERAL REGULATIONS TARIFF, P.S.C.-D.C.
No. 3**

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Section 2-505 of the District of Columbia Official Code,¹ of its final rulemaking action taken in the above-captioned proceeding. On June 20, 2007, the Commission released Order No. 14339, approving Washington Gas Light Company's ("WGL")² Application for an updated Rights-of-Way Surcharge ("ROW").

2. The ROW Surcharge contains two components, the ROW Current Factor and the ROW Reconciliation Factor. On March 21, 2007, pursuant to D.C. Official Code Section 10-1141.6,³ WGL filed with the Commission an updated ROW Current Factor.⁴ In the tariff filing, WGL shows the process to be used to recover from its customers the D.C. Public Rights-of-Way fees paid by WGL to the District Columbia Government. Specifically, WGL proposes to amend the following tariff page:

GENERAL SERVICES TARIFF, P.S.C.-D.C. No. 3

**Section 22
2nd Revised Page 56**

3. WGL asserts that its ROW Current Factor will become effective commencing with the April 2007 billing cycle.

4. A Notice of Proposed Rulemaking regarding WGL's Surcharge Filing was published in the *D.C. Register* on May 11, 2007.⁵ No comments were filed in response to the filing. Subsequently, the Commission approved WGL's Surcharge Filing by Order No. 14339.

¹ D. C. Official Code § 2-505 (2001 Ed.).

² *GT00-2, In The Matter Of Washington Gas Light Company's Rights-Of-Way Surcharge General Regulations Tariff, P.S.C.-D.C. No. 3, ("GT00-2")* Surcharge Filing of Washington Gas Light Company, ("Surcharge Filing"), filed March 21, 2007.

³ D.C. Official Code, 2001 Ed. § 10-1141.06, states that "Each public utility company regulated by the Public Service Commission shall recover from its utility customers all lease payments which it pays to the District of Columbia pursuant to this title through a surcharge mechanism applied to each unit of sale and the surcharge amount shall be separately stated on each customer's monthly billing statement."

⁴ *GT00-2, Surcharge Filing* at 1.

⁵ 54 *D.C. Reg.* 4487-4488 (May 11, 2007).

WGL's Rights-of-Way Surcharge Filing will become effective upon the date of publication of this Notice of Final Rulemaking in the *D.C. Register*.